

FILED
JAMES BONINI
CLERK

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

09 MAR 16 AM 11:26

U.S. DISTRICT COURT
SOUTHERN DIST. OHIO
WEST DIV. CINCINNATI

KENNETH D. CHRISTMAN, M.D.,

Case No.

1109 CV 189

WEBER

Plaintiff,

v.

NOTICE OF REMOVAL BY
DEFENDANT RUTHERFORD
MIDDLETON, JR.

RUTHERFORD MIDDLETON, JR.,

Defendant.

Defendant, Rutherford Middleton, Jr., by and through the undersigned counsel, respectfully submits this Notice of Removal pursuant to 28 U.S.C. §§ 1441, 1442(a) and 1446(a) and states as follows.

1. Defendant Rutherford Middleton, Jr. received notice of a Summons and Complaint in the lawsuit styled Kenneth D. Christman, M.D. v. Rutherford Middleton, Jr., Case No. 09-01-CVF-0016 (In the Franklin Municipal Court, Warren County, Ohio, Civil Division). A copy of the Complaint is attached hereto as Exhibit A.

2. The Complaint seeks to obtain a personal judgment against the defendant for emergency medical care rendered to the defendant by the plaintiff. The defendant is a veteran and insured by the Veterans Administration under 38 C.F.R. Section 17.56. Said Complaint raises the issue of the application of the statutory bar from seeking payment from a veteran by a non-Veterans Administration medical provider.


3. The above-styled lawsuit is removable from the Franklin Municipal Court, Warren County, Ohio, Civil Division to this Court pursuant to 28 U.S.C. § 1442(a) because the lawsuit is seeking a personal liability judgment against Rutherford Middleton, a veteran.

WHEREFORE, Defendant Rutherford Middleton, Jr., by and through the undersigned counsel, gives notice that this lawsuit is being removed from the Franklin Municipal Court, Warren County, Ohio, Civil Division, to this court pursuant to 28 U.S.C. §§ 1441, 1442(a) and 1446(a).

Further, Defendant Rutherford Middleton, Jr. prays for a period of 60 days from the date of the filing of this Notice within which to move, answer or otherwise plead, pursuant to Rule 12(a) of the Federal Rules of Civil Procedure.

Respectfully submitted,

GREGORY G. LOCKHART
United States Attorney

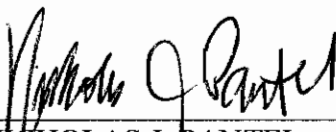


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CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing Notice of Removal by Defendant Rutherford Middleton, Jr. was mailed on this 16th day of March, 2009, to:

Steven C. Katchman, Esq.
137 North Main Street, Suite 610
Dayton, Ohio 45402



NICHOLAS J. PANTEL
Assistant U.S. Attorney